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## **News Release**

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### **Landfill, construction companies reach settlement to resolve alleged violation of Clean Water Act**

A Benton County landfill company, its owner, and a Morris-based construction company yesterday agreed to a proposed federal court settlement that would resolve claims brought against them by the United States for violations of the Clean Water Act, the federal law aimed at protecting and improving the quality of our nation's waters.

According to the civil complaint filed Aug. 27 in Minneapolis, in May and June of 2003, the three defendants — Gerome G. Henkemeyer, Henkemeyer Landfill, Inc., and Riley Bros. Construction, Inc. — discharged thousands of cubic yards of fill material into approximately 6.7 acres of wetlands located in Watab Township, north of Sauk Rapids. The complaint further alleges that defendants failed to obtain a required permit for the discharge, in violation of the Act.

Under the proposed settlement — which is subject to a 30-day public comment period and has not been approved or made effective by the Court — the defendants agree to restore the impacted wetlands to the maximum extent possible and at their own expense, provide mitigation for the temporal loss of wetland functions, and together pay civil penalties totaling \$150,000.

According to the complaint, Riley Brothers contracted with the Minnesota Department of Transportation to haul and permissibly dispose of fill material and other construction debris obtained from a highway reconstruction project concerning an overpass for Minnesota Highway 10 and County Road 32 in Benton County. Riley Brothers also entered into a separate arrangement with Henkemeyer Landfill allowing Riley Brothers to dispose of the highway project fill into wetlands areas that surrounded the operational location of the Henkemeyer Landfill.

According to the complaint, between May 15, 2003, and June 13, 2003, through the use of trucks and other heavy equipment, the defendants caused the discharge of approximately 95,000 cubic yards into the wetlands.

The affected wetlands are seasonally-flooded wetlands that have a direct hydrological connection to unnamed tributary of the Mississippi River, are listed on the National Wetland Inventory, and are located approximately one mile from the location of the highway construction project. The defendants' illegal activities would have allowed Henkemeyer to expand the size and capacity of his landfill — by creating a thick, impermeable layer of fill over surrounding wetlands — while simultaneously allowing Riley Brothers to dispose of the fill at a location relatively close to the highway project.

In 1996, the Corps had issued an after-the-fact permit to Henkemeyer for a previous, unauthorized discharge at the site. That permit included a provision that “no filling, grading, or excavation shall take place in the wetland areas without prior approval from the Corps of Engineers.”

The United States was represented by Assistant U.S. Attorney Fred Siekert, with the assistance of the St. Paul District of the Corps of Engineers.